

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MARK) APPEAL NO. 07-A-2027
AND MARJEAN BULCHER from the decision of) FINAL DECISION
the Board of Equalization of Blaine County for tax) AND ORDER
year 2007.)

AGRICULTURAL EXEMPTION APPEAL

THIS MATTER came on for hearing October 16, 2007 in Hailey, Idaho before Board Member David E. Kinghorn. Board Members Lyle R. Cobbs and Linda S. Pike participated in this decision. Appellants Mark and Marjean Bulcher appeared at hearing. Assessor Valdi Pace and Deputy Assessor Gary Hill appeared for Respondent Blaine County. This appeal is taken from a decision of the Blaine County Board of Equalization denying an agricultural exemption for property described as Parcel No. RP 002640000030.

The issue on appeal is the whether subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-604 - the agricultural land exemption.

The decision of the Blaine County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$1,500,000. Appellants request an agriculture exemption on all the subject land.

The subject property is unimproved and 12 acres in size. It is a rural parcel located in Greenhorn subdivision. In 2007, subject was categorized as Category 04 - Meadow Land, but assessed under the market value standard.

The Taxpayers explained subject was leased to Lazy T2 Ranch from Wendel, Idaho for the years 2006 and 2007. The lessee was a "Bona Fide" cow/calf operator. A copy of the lease was on file with the County Assessor.

Appellants stated in 2006 improvements to subject ground were needed and a tractor was working the ground. Extensive sagebrush was removed, ditches were smoothed and uneven areas were leveled in order to aid grass production. The Taxpayers also testified the lessee swathed, baled, and removed hay from the land in the summer of 2007. Photographs were submitted by both parties to demonstrate the condition of subject in 2006 and 2007. The intentions of the lessee were to continue the same harvest operations in the future.

Taxpayers stated the Greenhorn Covenants, Conditions, and Restrictions (CC&R's) specifically permit agriculture use "each parcel shall only be used for reasonably related agricultural activities and if constructed, single family purposes." Appellants also noted Idaho Code Section 63-604 provides "land which is actively devoted to agricultural shall be eligible for appraisal, assessment and taxation as agricultural property."

Appellants contended the words "actively devoted" means the land is put to agricultural use in the current year, not the previous years. Appellants stated that as of the January 1, 2007 assessment date, subject was fully prepared and capable of raising a crop of hay.

Respondent agreed the land's CC&R's allow for agriculture use. The County contended subject's 2006 agricultural exemption was granted erroneously because the property was a bare lot not being put to agricultural use on January 1, 2006. In other words, subject's actual and functional use was not agricultural.

The County visibly inspected subject in the Spring and Fall of 2006 and determined there was no indication of grazing or harvesting a crop on any portion of the land. Respondent argued the legislative intent behind the Agricultural Exemption intended that a qualifying "use" be present. Absent grazing or crop production, it was contended the land was

not entitled to the exemption. The County cited in support of this position *Ada County Board of Equalization v. Highlands, Inc.*, 141 Idaho 202, 108 P.3D 349 (2005).

Respondent maintained the land would meet the qualifications for exemption for 2008, as the evidence clearly supports subject was hayed in 2007.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to determine whether subject qualified for the "land actively devoted to agriculture" exemption. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Agricultural land exemptions are granted pursuant to Idaho Code. In pertinent part the exemption provides:

Idaho Code § 63-604. Land Actively Devoted to Agriculture defined.

(1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; . . .

At issue here is whether the 12 acres qualifies for the exemption where the land was being extensively prepared to produce or enhance an agricultural hay crop.

Respondent noted subject was not growing a crop or being used to graze cattle in 2006. Appellant testified and otherwise demonstrated that in 2006 the ground was being worked in preparation for harvesting a hay crop, and as of January 1, 2007 the land was fully

ready to produce such hay for the lessee.

The subject was being cleared, leveled and otherwise improved for the 2007 growing season. The work was extensive and involved basically all of the 12 acres in one fashion or another. As noted by Respondent the property's status on the statutory assessment and lien date controls for the current tax year. See Idaho Code § 63-205(1).

The Idaho Supreme Court held in *Roeder Holdings, L.L.C v. Board of Equalization of Ada County*, 136 Idaho 809, held that for the purpose of determining eligibility under the agricultural exemption, the January 1 lien date was not proper. Instead, the court found that compliance with accepted agricultural practices, such as planting crops at the appropriate time and field preparation, are the key factors to determine use as required under the agricultural exemption statute.

The prior intent, along with the current use of subject as part of an active agricultural operation, supports Appellant's contention the agricultural exemption should be granted. Although there was no seen crop growing on the property as of January 1, 2007, the land had been prepared for planting the previous fall in compliance with agricultural practices in order to be ready to plant in the Spring. Thus, the subject qualifies as "actively devoted to agriculture." Accordingly, the Board will reverse the decision of the Blaine County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Blaine County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed. The subject land shall be taxed as other similarly situated ground that

qualified for the agricultural land.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

MAILED APRIL 30, 2008